

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

BARUTI HOPSON,

Petitioner,

v.

STEVEN SINCLAIR,

Respondent.

Case No. C15-1040 RSL-BAT

**REPORT AND
RECOMMENDATION**

Petitioner Baruti Hopson filed this action under 28 U.S.C. § 2254 challenging his 2010 convictions in King County Superior Court for two counts of promoting commercial sexual abuse of a minor, one count of second degree assault, and three counts of third degree rape of a child. Dkt. 1-1. The Court's records reflect that the petition is a second or successive petition which must be transferred to the Ninth Circuit.

DISCUSSION

Petitioner previously filed a federal petition for habeas corpus relating to his 2010 convictions. His federal petition was denied on the merits and dismissed by the District Court on August 5, 2014. *See Hopson v. Uttecht*, USDC No. C13-2279 MJP (Dkts. 25 and 26 therein). Petitioner acknowledges that this is his second federal petition, but contends that he is not challenging any issue previously addressed but is asking the Court to focus on why his writ of habeas corpus docketed on March 18, 2011 "was ignored by the King County Superior Court."

1 Dkt. 1-1, p. 13.

2 Petitioner's current petition appears to be a second or successive petition. If a petition is
3 second or successive, then petitioner must seek authorization from the Court of Appeals before
4 filing the new petition with the district court. 28 U.S.C. § 2244 (b) (3) (A). Ninth Circuit Rule
5 22-3 (a) provides guidance:

6 Any petitioner seeking leave to file a second or successive 2254 petition or 2255
7 motion in district court must seek leave under 28 U.S.C. §§ 2244 or 2255. An
8 original and five copies of the application must be filed with the Clerk of the
9 Court of Appeals. No filing fee is required. If a second or successive petition or
motion, or application for leave to file such a petition or motion, is mistakenly
submitted to the district court, the district court shall refer it to the court of
appeals.

10 CONCLUSION

11 The Court recommends that this petition be referred to the Ninth Circuit and that the file
12 be administratively closed without deciding whether the petition should be dismissed.

13 Any objections to this Recommendation must be filed and served upon all parties no later
14 than **Wednesday, July 22, 2015**. The Clerk should note the matter for **Friday, July 24, 2015**, as
15 ready for the District Judge's consideration if no objection is filed. If objections are filed, any
16 response is due within 14 days after being served with the objections. A party filing an objection
17 must note the matter for the Court's consideration 14 days from the date the objection is filed
18 and served. The matter will then be ready for the Court's consideration on the date the response
19 is due. Objections and responses shall not exceed twelve (12) pages. The failure to timely
20 object may affect the right to appeal.

21 DATED this 1st day of July, 2015.



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23 BRIAN A. TSUCHIDA
United States Magistrate Judge